UNITED
NATIONS

E

Economic and Social
Council

Distr.
GENERAL

E/C.12/1991/SR.2
27 November 1991

Original: ENGLISH

COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Sixth session

SUMMARY RECORD OF THE 2nd MEETING

Held at the Palais des Nations, Geneva,
on Monday, 25 November 1991, at 3 p.m.

Chairman: Mr. ALSTON

CONTENTS

Consideration of reports

(a) Reports submitted by States parties in accordance with articles 16 and 17 of the Covenant

Afghanistan

Organization of work (continued)

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent within one week of the date of this document to the Official Records Editing Section, room E.4108, Palais des Nations, Geneva.

Any corrections to the records of the meetings of the Committee at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

GE.91-18623/2374H

The meeting was called to order at 3.15 p.m.

CONSIDERATION OF REPORTS (agenda item 7)

(a) REPORTS SUBMITTED BY STATES PARTIES IN ACCORDANCE WITH ARTICLES 16 AND 17 OF THE COVENANT

Afghanistan (E/1990/5/Add.8 and E/1984/6/Add.12)

1. At the invitation of the Chairman, Mr. Amani and Mr. Damoon (Afghanistan) took places at the Committee table.

2. Mr. AMANI (Afghanistan) said that he would introduce his country's initial reports concerning rights covered by articles 6 to 9 of the Covenant (E/1984/6/Add.12) and rights covered by articles 1 to 15 of the Covenant (E/1990/5/Add.8) in the absence of the Vice-Minister of Justice who had not yet arrived in Geneva as scheduled.

3. The Constitution of Afghanistan reflected its determination to apply strictly the provisions of the International Covenant on Economic, Social and Cultural Rights. It provided for the establishment of democracy through the representation and participation of the people in all areas and activities, with a view to improving the social, economic and cultural conditions of all citizens throughout the country. Constitutional provisions and legislation were regularly brought into line with international rules and standards and had been amended to ensure consistency with present-day circumstances and the choice of the people.

4. There were four main lines of emphasis in the Government's efforts to protect economic, social and cultural rights - protection of the individual, citizens' health, education, and cultural and professional activities.

5. The Constitution ensured the protection of the citizen and his property, according priority to the rule of law through legal safeguards for individual rights and freedoms and their attendant obligations. The laws and decrees enacted in accordance with the Constitution covered the right of recourse, appeal and compensation, freedom of expression and the right to strike, without distinction on any grounds; they also included action against discrimination and against ill-treatment and violations of rights by others. The State was required to ensure the exercise and protection of citizens' rights, obligations and citizenship as laid down in the Constitution which represented the majority will of the people, determined through the ballot-box.

6. The Constitution also gave priority to the family code and the Government took all possible steps to ensure adequate housing and living standards and public cultural activities and facilities, placing emphasis on social benefits, the right to motherhood and the development of culturally underprivileged areas.

7. Labour legislation guaranteed workers' rights and healthy and pleasant working conditions. The Government's programme was aimed at eliminating unemployment by distributing industrial and economic sites evenly across the country, encouraging crafts, providing financial and technical equipment for private sector projects, according credit facilities and ensuring a continuing supply of equipment and materials to industry. Labour laws ensured the consistency of working hours and wages, in the public and private sectors alike, with international standards, including those laid down in the Covenant, encouraged productivity and enabled workers to secure their rights to fair wages, bonuses, rest periods, sickness leave, reimbursements, promotion and training, collective and individual rewards and recognition for productivity, general benefits, protection from occupational diseases and compliance with occupational safety standards.

8. Health care was free of charge for all citizens, without distinction of any kind. The Government had introduced a free health programme for disease prevention and treatment, including vaccination, in deprived, vulnerable and remote areas, increasing the number of medical centres and mobile units, reinforcing staff and ensuring a regular supply of medicines. Encouragement was given to scientific and biological research and training in collaboration with the World Health Organization (WHO) and charitable institutions.

9. Priority was given to education, which was free and compulsory for all citizens; the Government's substantially funded programme covered all levels of formal and non-formal education, including literacy instruction, adult education, vocational training, teacher training and research. Schools and teacher-training colleges were established throughout the country on an equitable basis and provided with the necessary equipment, facilities and staff, and programmes and curricula were brought into line with international standards. Emphasis was placed on participation by all sectors of society in building the nation's future and keeping abreast of scientific progress, with due regard for freedom of information, research and the press.

10. In conclusion, the Constitution, its subsequent amendments and the relevant rules and laws genuinely reflected the provisions of the Covenant. Absolute priority was given to national construction by the citizens themselves, to the protection of the individual and of the family, the supremacy of justice, an effective education system and a healthy and viable living and working environment.

11. Having presented the report drafted by the Ministry of Justice in consultation with all the relevant governmental and non-governmental departments and bodies, he wished to be entirely frank with the Committee in saying that the information it contained did not genuinely reflect the actual situation prevailing in a country which had been torn by civil strife for 14 years, taking a terrible toll in human lives and economic resources. The destruction wrought by the continuing conflict and the difficulty in controlling the whole territory inevitably inhibited the full exercise of economic, social and cultural rights in his country. The unexpected absence

of the government expert from the capital had left him unprepared to reply to the Committee's questions with all the facts to hand. He therefore requested the Committee to bear those circumstances in mind in putting its questions to him or, alternatively, to permit him to take note of all the questions and submit a reply in writing in the shortest possible time.

12. Mrs. JIMENEZ BUTRAGUEÑO, accepted an invitation to take the lead in preparing the first draft of the Committee's general observations on the report of Afghanistan, and pointed out that a comprehensive list of issues (E/C.12/WG/1991/CRP.1) had been prepared by the pre-sessional working group in connection with the report of Afghanistan and that specific answers were required to the questions listed before a full assessment of the situation could be made. She understood the reasons given by the representative of Afghanistan and sympathized with the plight of the Afghan people.

13. The CHAIRMAN, reviewing the Committee's procedure for considering reports for the benefit of new members, referring them to paragraphs 31 and 32 of the Committee's report on the fifth session (E/C.12/1990/8) and taking it that Mrs. Jimenez Butragueño would be the first speaker in the concluding observations phase, invited further comments from members and representatives of specialized agencies on the report of Afghanistan and any other documentation before the Committee.

14. Mr. KONATE said that, since so far there had been no reply to the list of issues drawn up by the pre-sessional working group, it seemed pointless to ask the same questions again and premature to proceed with further questioning. Had the list of issues in fact been forwarded to the Government? The government representatives should perhaps be given time to prepare answers for submission to the Committee on the next day.

15. The CHAIRMAN agreed that a response to the list of questions prepared by the working group was required before any additional questions were asked. In view of the uncertainty surrounding the arrival of the competent official from the capital, it did not seem feasible to reschedule the dialogue. He invited further comments on the procedure to be adopted.

16. Mr. SIMMA said that, since it was not clear whether the Afghan delegation would be able to respond fully to the list of questions prepared by the working group, the Committee was left with two options: to deposit the list of issues with the Government of Afghanistan, with a request to submit additional information as soon as possible, or to take up the list of issues in the meeting, dividing the questions among the members present.

17. Mr. MRATCHKOV said he shared Mr. Konate's view that it would be premature to proceed with a discussion of the report. He therefore proposed that consideration of the report should be deferred to another day, pending the arrival of the representative of Afghanistan from Kabul, failing which examination of the report should be postponed to the seventh session.

18. The CHAIRMAN said that, given that the Committee had no indication that the Afghan Vice-Minister of Justice would in fact arrive in Geneva in the next few days, Mr. Mratchkov's first option was not a realistic one. In any case,

time constraints would not allow for the rescheduling of the presentation, unless there was another cancellation. He thus felt that the Committee had little option but to defer consideration of the report until its next session. However, in view of the difficulties encountered when the Afghan report had been scheduled for consideration on previous occasions, and of the failure of the report to follow the guidelines and to address most of the issues, there might be a case for expressing in very clear terms the Committee's sense of disappointment and frustration. Simply to defer consideration of the report to a later session would constitute a bad precedent.

19. Mr. SPARSIS, noting that the Permanent Representative of Afghanistan was familiar with the Committee's procedures, asked whether he would therefore advise the Committee as to how the Afghan delegation favoured dealing with the report?

20. Mr. AMANI (Afghanistan) said that he had been relying on the expert from Kabul to reply to the questions submitted; otherwise, he would himself have tried to prepare replies to many of the questions.

21. The CHAIRMAN said that a further option would be to suspend consideration of the report for the present, and to reflect further on an appropriate response during the time allocated for concluding observations on the following day.

22. Mr. ALVAREZ VITA pointed out that the practice of the Committee had always been to consider country reports in the presence either of a representative sent specially from the country in question or of its Permanent Representative in Geneva. Was the Permanent Representative of Afghanistan in a position to take note of any additional questions that might be put; and could he provide replies to them? If that was not the case, the Committee was in danger of establishing a precedent whereby it could consider a country's report only in the presence of a representative sent from the capital. He suspected that the Permanent Representative could in fact answer many of the questions members might put to him; however, that question should be put to him by the Chair.

23. Mrs. IDER supported the last option proposed by the Chairman. It was important to spare no effort to secure a constructive dialogue with States parties. Furthermore, it was not yet a foregone conclusion that the Vice-Minister would not come to Geneva. The Permanent Representative had learned only that morning that he was to represent his country before the Committee; he could thus hardly be expected to answer questions on the spur of the moment. If members now put their additional questions, he could then answer such questions as he was able, leaving the remainder to be dealt with by the representative from Afghanistan. The Committee's schedule could be rearranged accordingly.

24. Mr. NENEMAN thought that the Committee had only two options: ideally, it should obtain assurances from the Permanent Representative that he would come before the Committee the following day with responses which he had prepared in

the meantime. Failing that, the Committee must state that, owing to the lack of information and official dialogue, it was unable to accept the report by Afghanistan.

25. Mrs. BONOAN-DANDAM asked how she could be expected to consider the report presented by the Permanent Representative of Afghanistan, while disregarding his admission that it did not reflect the true situation in that country.

26. The CHAIRMAN invited the Permanent Representative of Afghanistan to respond to the various comments made, and to state what course of action by the Committee his delegation now favoured.

27. Mr. AMANI (Afghanistan) said that, in remarking that the report did not reflect the true situation in Afghanistan, he had intended to stress that, in a country racked by civil war and partially under the control of groups that respected neither domestic nor international law, it was not possible to apply international norms and standards. In Government-controlled areas, the provisions of the Constitution were applied; but the Government could not guarantee application of international norms and conventions in areas that were under the control of opposition forces.

28. He was not in a position to reply to the specific questions contained in the questionnaire, nor would he be able to prepare adequate replies in time for the following day's meeting. He hoped that the Vice-Minister of Justice would arrive in Geneva in time for that meeting. In any case, he undertook to provide written replies to the Committee's questions within one to two months. In his view, the best course of action would be to defer consideration of the report until the seventh session.

29. The CHAIRMAN said that, leaving open the possibility that the Vice-Minister might arrive within the next 24 hours, in which case the Committee could try to adjust its schedule in order to accommodate its normal procedure, it still had before it 36 questions to which the Ambassador was unable to provide answers. He thus suggested that the Committee should conclude that stage of its consideration of the report, taking due note of the Permanent Representative's expressed preference that his Government should be given an opportunity to respond to the questions in writing within one or two months and that the report should be reconsidered at the seventh session; and that it should turn the following day to the concluding observations phase of its proceedings, by which time it would be apparent whether the Vice-Minister would in fact be attending.

30. It was so decided.

31. Mr. Amani and Mr. Damoon (Afghanistan) withdrew.

ORGANIZATION OF WORK (continued)

32. Mrs. JIMENEZ BUTRAGUEÑO stressed the importance of the final observations stage of the Committee's proceedings. If there was to be a meaningful dialogue with States parties, it was essential that the Committee should have answers to the written questions submitted. The Committee must adhere to the system that it had so laboriously perfected.

33. The CHAIRMAN stressed that, during the concluding observations phase, the Committee would not be commenting on the adequacy of the report, a matter concerning which it now appeared that nothing further remained to be said. Nevertheless, in her capacity as first speaker during the concluding observations phase, Mrs. Jimenez Butragueño must attempt to come up with a formula expressing members' deep sense of frustration at the course events had taken.

The meeting rose at 4.30 p.m.